

Department of Planning and Zoning

149 Church Street
Burlington, VT 05401
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TO: Development Review Board
FROM: Scott Gustin *SG*
DATE: July 15, 2014
RE: 14-1254CU; 934 North Avenue

Note: These are staff comments only; decisions on projects are made by the Development Review Board, which may approve, deny, table or modify any project. THE APPLICANT OR REPRESENTATIVE MUST ATTEND THE MEETING.

Zone: RL Ward: 7

Owner/Representative: 934 North Avenue, LLC / Michele Ready Ambrosino

Request: Convert mixed residential / funeral home to mixed residential / general office

Applicable Regulations:

Article 3 (Applications, Permits, and Project Reviews), Article 4 (Maps & Districts), Article 8 (Parking)

Background Information:

The applicant is requesting conditional use approval to convert the existing funeral home use to general office use. The existing 3 apartments would remain unchanged. No site or exterior building changes are proposed. The fundamental flaw in this proposal is that general office is not a permitted or conditional use in this residential low density zone.

Previous zoning actions for this property are noted below.

- 10/28/11, Approval to replace windows
- 4/16/11, Approval to replace asphalt roofing with rubber membrane
- 6/9/01, Approval to enlarge the basement window of an existing residential unit
- 10/12/78, Approval to replace wooden trim, re-roof porch, and install vinyl siding

I. Findings

Article 3: Applications and Reviews

Part 5, Conditional Use & Major Impact Review:

Sec. 3.5.6, Review Criteria

(a) Conditional Use Review Standards

1. The capacity of existing or planned community facilities;

The conversion of the funeral home to general office will have little, if any, net increase in demand on community facilities. The change in use may require a state wastewater permit. **(Affirmative finding)**

2. The character of the area affected;

The property is located within the Residential Low Density zone. This zone is intended primarily for single family homes and duplexes. Only a handful of other nonresidential uses are allowed as

permitted or conditional uses in this zone. The funeral home is an allowable conditional use in this zone, so long as it is located along a major street such as North Avenue. The proposed office use is not a permitted or conditional and is inconsistent with the intent of this zoning district.
(Adverse finding)

3. Traffic on roads and highways in the vicinity;

No traffic information has been provided. Traffic patterns will likely change from large funeral events at varying days and times to a more consistent AM and PM peak hour trip generation. No information relative to anticipated numbers of employees has been provided. As a result, no accurate estimate of traffic generation can be made. **(No finding possible)**

4. Bylaws then in effect;

As proposed, the applicant is not compliant with applicable bylaws. **(Adverse finding)**

5. Utilization of renewable energy resources;

Not applicable.

6. Cumulative impacts of the proposed use;

Accepting the interpretation offered by the applicant, as per *Sec. 4.4.5, (a) (1)* below, would allow the establishment of any use whatsoever anywhere in the RL zone as long as it is in a mixed use building with attached dwelling units. This clearly is not the intent of the CDO to allow non-permitted uses just because it is in a mixed use building. **(Adverse finding)**

7. Functional family;

Not applicable.

8. Vehicular access points;

No changes to site access are proposed or would be necessary for the proposed change in use.
(Affirmative finding)

9. Signs;

Not applicable.

10. Mitigation measures;

The proposed general office use would not generate noise, odors, or glare requiring mitigation.
(Affirmative finding)

11. Time limits for construction;

Not applicable.

12. Hours of operation and construction;

The proposed general office use would operate 8:00 AM – 5:00 PM, Monday – Friday. These hours are more consistent and limited than those of the existing funeral home use. No new exterior construction is proposed. **(Affirmative finding)**

13. Future enlargement or alterations;

In the event of future enlargement or alteration, review and approval under the regulations then in effect would be required.

14. Performance standards;
Not applicable.

15. Conditions and safeguards;
No conditions are offered as the proposal is not a permitted or conditional use.

Article 4: Maps & Districts

Sec. 4.4.5, Residential Districts:

(a) Purpose

(1) Residential Low Density (RL)

The subject property is located in the RL zone, which is intended primarily for single family homes and duplexes. This district is typically characterized by a compact and cohesive residential development pattern reflective of the respective neighborhoods' development history. The existing funeral home is a conditional use. While no site or exterior building changes are proposed, the general office use is not permitted or conditional and is inconsistent with the express intent of the RL zone. **(Adverse finding)**

(b) Dimensional Standards & Density

Not applicable.

(c) Permitted & Conditional Uses

The existing funeral home is a conditional use. The proposed general office use is not permitted or conditional and cannot be approved. The applicant has asserted that the proposal is acceptable under *Appendix A – Use Table – All Zoning Districts* which notes “attached dwellings – mixed use” as a conditional use in the RL zone. This provision is indeed made in the use table, but it does not somehow open the door wide to any and all mix of uses. It does not provide the ability add any unpermitted use, but only that uses allowed can be mixed with dwelling units. What the provision does is to allow exactly what is on the property now – a mix of an allowable nonresidential use (the funeral home) with attached dwellings (in this case, 3 apartments). To construe the “mixed use” provision to allow any mix of uses quickly leads to absurd results. **(Adverse finding)**

(d) District Specific Regulations

1. Setbacks

A. Encroachment for Residential Driveways

Not applicable.

B. Encroachment into the Waterfront Setback

Not applicable.

2. Height

A. Exceptions in the Waterfront RM District

Not applicable.

3. Lot Coverage

A. Exceptions for Accessory Residential Features

Not applicable.

4. Accessory Residential Structures and Uses

Not applicable.

5. Residential Density

Not applicable.

6. Uses

Not applicable.

7. Residential Development Bonuses

Not applicable.

Article 8: Parking

The 2,000 sf funeral home space to be converted to general office space would require 4 parking spaces (2 per 1,000 sf). These spaces are required on top of the 6 spaces required for the existing 3 residential units (2 per dwelling unit). The existing parking area contains room for some 30 parking spaces. **(Affirmative finding)**

II. Reasons for Denial

Denial of the application is warranted per the adverse findings above.



Department of Planning and Zoning

149 Church Street, City Hall

Burlington, VT 05401-8415

Phone: (802) 865-7188

Fax: (802) 865-7195

www.burlingtonvt.gov/pz

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DEPARTMENT OF
PLANNING & ZONING

Zoning Permit Application

Use this form for ALL zoning permit applications. See the relevant checklist for specific requirements.

PROJECT LOCATION ADDRESS: 934 North Avenue

PROPERTY

OWNER*: 934 North Avenue LLC

*If condominium unit, written approval from the Association is also required

APPLICANT: Michele Ready Ambrosino

POSTAL ADDRESS: 261 Shelburne Road

CITY, ST, ZIP: Burlington, VT 05401

DAY PHONE: 802/862-0991

EMAIL: mambrosino@readyfuneral.com

SIGNATURE:

[Signature]
I am the owner. In addition, I duly authorize the applicant (if noted) to act on my behalf for all matters pertaining to this zoning permit application.

POSTAL ADDRESS: 261 Shelburne Road

CITY, ST, ZIP: Burlington, VT 05401

DAY PHONE: 802/598-7047

EMAIL: mambrosino@readyfuneral.com

SIGNATURE:

[Signature]

Description of Proposed Project: Conditional Use permit for Attached Dwelling/Mixed Use from funeral home to general office, hours of operation will diminish

from 24/7 365 days a year to 8-5 Monday-Friday. Current office square footage is @ 2000 sq ft and will remain the same. Traffic will diminish significantly as funerals and visiting hours can have

hundreds of people over a short time period. There is parking currently for over 30-40 cars and this easily supports the change from Funeral Home to General Office space.

Existing Use of Property: ☐ Single Family ☐ Multi Family: # Units ☒ Other: Mixed Use

Proposed Use of Property: ☐ Single Family ☐ Multi Family: # Units ☒ Other: Mixed Use

Will 400 sq ft or more of land be disturbed, exposed and/or developed?

Yes ☐ No ☒

(If yes, you will need to provide the 'Erosion Prevention and Sediment Control Plan' questionnaire with a site plan)

For Single Family & Duplex, will total impervious area be 2500 sq ft or more?

Yes ☐ No ☒

(If yes, you will need to provide the 'Stormwater Management Plan' questionnaire with a site plan)

Are you proposing any work within or above the public right of way?

Yes ☐ No ☒

(If yes, you will need to receive prior approval from the Department of Public Works)

Estimated Construction Cost (value)*: \$ 0

(*Estimated cost a typical contractor would charge for all materials and labor, regardless of who physically completes the work)

- Within 30 days of submission, the permit application will be reviewed for completeness, and, if complete, will be processed administratively or referred to a board for review. All permit approvals or denials are subject to an appeal period (15 days for administrative permit; 30 days for board permit).
- A building (and/or electrical, mechanical, plumbing, curb cut) permit will also be required. Contact the Department of Public Works at 802-863-9094 to inquire.
- Please ask for assistance if you have any questions about filling out this form. Call the Planning and Zoning at 802-865-7188, or visit the office in the lower level of City Hall, 149 Church Street.

Office Use Only: Zone: RL Eligible for Design Review? Y Age of House 1966 Lot Size 27 913

Type: SN ☐ AW ☐ FC ☐ BA ☐ COA 1 ☐ COA 2 ☐ COA 3 ☐ CU ☒ MA ☐ VR ☐ HO ☐ SP ☐ DT ☐ MP ☐

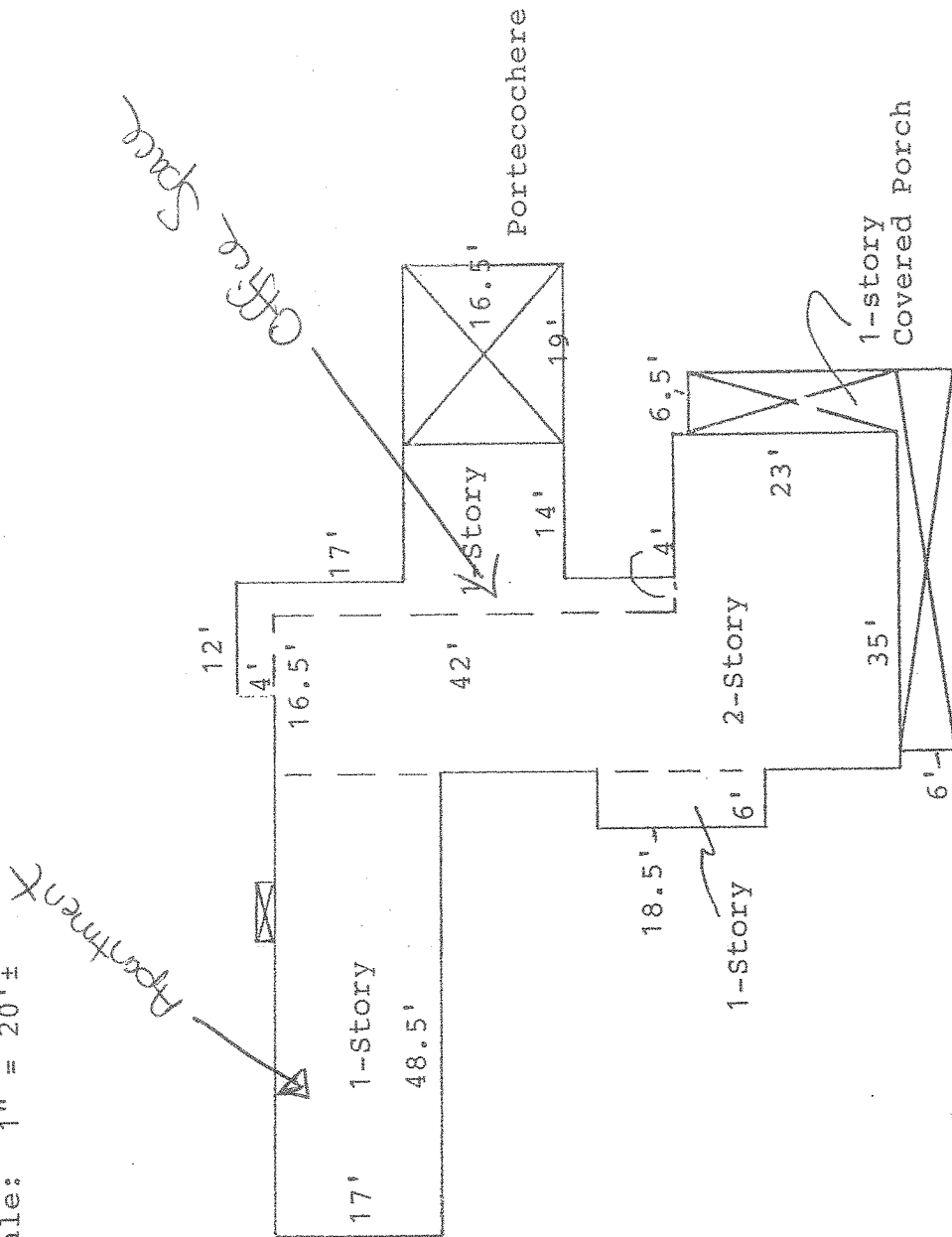
Check No. 29 052 Amount Paid 150 Zoning Permit # 14-125764

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DEPARTMENT OF
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Building Sketch
Scale: 1" = 20'±



[illegible]

934 North Avenue



50 25 0 50 Feet

